

**AGREEMENT FOR THE PROVISION OF  
SERVICES RELATED TO THE  
EMERGENCY MEDICAL CARE SYSTEM  
IN LINCOLN, NEBRASKA**

**(RENEWAL)**

THIS AGREEMENT is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between **Emergency Medical Services, Inc.**, a nonprofit corporation, hereinafter referred to as "Oversight Contractor", **The City of Lincoln, Nebraska**, a municipal corporation, hereinafter referred to as "City", **Saint Elizabeth Regional Medical Center**, a non-profit corporation, hereinafter referred to as "Saint Elizabeth", **BryanLGH Medical Center**, a non-profit corporation, with two Lincoln campuses, one at 1600 South 48th Street and one at 2300 South 16th Street, hereinafter referred to as "BryanLGH" and **Lancaster County Medical Society**, a non-profit corporation, hereinafter referred to as "LCMS."

**RECITALS**

**I.**

The parties have previously entered into an Agreement which reposed in Oversight Contractor the right and duty to establish Medical Care Protocols to be followed by, as applicable, those entities and agencies comprising the out-of-hospital emergency medical care system in Lincoln; to provide continuing quality assessment of the care being provided to citizens of the City of Lincoln by the out-of-hospital emergency medical care system; to provide medical direction and control; to provide rate review and recommendations for ambulance rates in the City of Lincoln; and to perform other duties relating to the provision of out-of-hospital emergency medical care in Lincoln.

**II.**

The parties now desire to renew said Agreement for an additional term of four years upon the terms and conditions as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do agree as follows:

**Section 1. Duties of Oversight Contractor.**

A. Protocols/Medical Treatment Guidelines. Oversight Contractor shall be responsible for and shall have the authority to perform the following duties:

(1) Establish and assist in enforcing medical standards by which out-of-hospital emergency medical care will be implemented and assessed.

(2) Review reports regarding qualifications and performance of all out-of-hospital emergency medical care personnel.

(3) Approve or conduct in-service education and training programs necessary to maintain the skilled proficiency of all out-of-hospital emergency medical care and emergency medical dispatch personnel involved in the out-of-hospital emergency medical care system.

(4) Conduct periodic reviews of patient care reports and medical care protocols/medical treatment guidelines to ensure compliance with established out-of-hospital emergency medical care standards.

(5) Review medical issues as they relate to recommended improvements in the emergency medical care system.

(6) The Oversight Contractor shall have no authority to eliminate or substantially impair the current priority dispatch system without the prior written approval of the City.

B. Quality Assurance. Oversight Contractor will conduct periodic review of basic and advanced life support provider performance in the field, as well as the emergency medical dispatchers, will analyze deviations from protocols/medical treatment guidelines, investigate incident reports, and proceed with corrective actions when non-compliance with established protocols/medical treatment guidelines is identified. In particular, Oversight Contractor shall:

(1) Conduct ongoing monitoring and analysis of the data collected for use in evaluation of emergency medical dispatch and basic and advanced life support personnel in the emergency medical care system.

(2) Conduct periodic reviews of the performance levels of emergency medical dispatch and basic and advanced life support personnel in the emergency medical care system through information gathered through the data collection procedure and through direct observation of performance by field supervisors.

(3) Review incident reports and recommend solutions for corrective measures or disciplinary action as appropriate.

(4) Provide advice, guidance, and recommendations to the Medical Director regarding disciplinary action for deviations from or non-compliance with established protocols/medical treatment guidelines.

(5) Review and prepare reports outlining strengths and weaknesses in the delivery of out-of-hospital emergency medical care on a system-wide basis.

(6) Conduct special studies involving the out-of-hospital emergency medical care system's provision of medical care as deemed appropriate.

(7) The Contractor may inspect ambulances and other emergency medical equipment at reasonable times to ensure compliance with the terms of any certificates held, state, local and federal laws, rules, regulations, or protocol.

(8) Monitor the internal quality improvement program of the Lincoln/Lancaster County 911 Communications Center to ensure compliance with the minimum quality improvement control measures required by the priority dispatch vendor.

C. Medical Direction. Oversight Contractor shall engage by contract a Medical Director who shall be a physician licensed to practice in the State of Nebraska, and is Board certified in emergency medicine or experienced in the practice of emergency medicine, to provide the overall medical direction and control necessary for all out-of-hospital emergency medical

services, including but not limited to emergency ambulance service, special event standby ambulance service, routine ambulance service, but shall not include air medical services and shall not apply to hospital employees performing out-of-hospital emergency medical care in their capacity as hospital employee, within the out-of-hospital emergency medical care system as required by the Emergency Medical Services Act (Neb. Rev. Stat. §71-5172, et. seq. (Reissue 2003)), and related statutes. The contract with the Medical Director will provide that such Director may not terminate or suspend his or her employment without 60 days notice to the Oversight Contractor.

The Medical Director shall, jointly with the Lancaster County Medical Society, promulgate Medical Care Protocols/Medical Treatment Guidelines to be followed by out-of-hospital emergency medical care personnel in the Lincoln emergency medical care system and to enforce such protocols/medical treatment guidelines. However, the Medical Director shall retain ultimate authority and responsibility for monitoring and supervision, for establishing protocols/medical treatment guidelines, for standing orders, and for the overall supervision of the medical aspects of the emergency medical service. For purposes of this Agreement, Medical Care Protocols/Medical Treatment Guidelines shall include those protocols/medical treatment guidelines that govern the provision of out-of-hospital emergency medical care by a provider to a patient, and shall include the adopting of pre-arrival instructions and response modes under the priority dispatch system currently used by the City in the dispatch of out-of-hospital emergency medical care providers. Such authority to promulgate protocols/medical treatment guidelines relating to dispatch must be exercised in a manner consistent with licenses and agreements as may exist between the City and the provider of any such priority dispatch system and may not cause the City to breach or act inconsistently with any labor contract governing emergency dispatchers (currently the Lincoln City Employees Association).

For purposes of this Agreement, the emergency medical care system shall be deemed to include Saint Elizabeth, BryanLGH, the Lincoln Fire and Rescue Department and any student/intern who may be permitted by the Lincoln Fire Department to ride along for the purpose

of obtaining field experience as part of a curriculum at any institution approved by EMS, Inc. in their Policy Number 8 as such policy may from time to time be amended or otherwise approved by EMS, Inc., the Lincoln-Lancaster County Communications Center in its capacity as dispatch center for emergency medical calls, any person or entity holding a Routine Ambulance Service license issued by the City; however, the Medical Director shall not have control over hospital employees performing out-of-hospital emergency medical care in their capacity as hospital employee. Such protocols/medical treatment guidelines shall be in writing. Prior to final approval being given to any new protocol, or the revision of any existing protocol, Oversight Contractor shall forward copies of the new or revised protocol to the Oversight Contractor's Board of Directors, to the Lancaster County Medical Society Medical Direction Board, and to the other parties for their review and comment. Such new or revised protocols/medical treatment guidelines shall be provided to all entities and agencies comprising the emergency medical care system.

The Medical Director is authorized to restrict the privileges of any out-of-hospital emergency care provider employed by any emergency medical service within the system based upon the refusal or failure of such provider to properly follow any patient care protocol, standing order, or other medical control directive; provided, however, this authority shall not apply to hospital employees performing out-of-hospital emergency medical care in their capacity as hospital employee. Upon being informed of any such refusal or failure, the Medical Director shall make such investigation as he or she deems appropriate and shall discuss the alleged refusal or failure with the out-of-hospital emergency care provider involved. The Medical Director shall consult with the head of the emergency medical service employing such provider to determine the appropriate restrictions, if any, to be placed on the provider and any remedial education or training required. The Medical Director's determination as to the appropriate restrictions and remediation shall be final and shall be reduced to writing with copies being provided to the provider and to the head of the emergency medical service employing the provider. The Medical Director, as required by law, shall

also report any such refusal or failure to the State of Nebraska for appropriate action in accordance with the Uniform Licensing Law of the State of Nebraska.

Any provider receiving a revocation, or a restriction of their scope of practice, shall have the right to request an informal hearing before the Oversight Contractor's Board of Directors to review the action(s) of the Medical Director. If the provider fails to complete any required remedial training or education, the restrictions shall continue until such remedial education or training is completed.

Any restriction imposed hereunder by the Medical Director shall be in addition to, and not in lieu of, any discipline deemed appropriate by the employer of the provider.

D. Ambulance Rates; Review. Oversight Contractor will review the schedule of maximum fees to be charged for routine ambulance service within the City of Lincoln as proposed by any holder of a Routine Ambulance Service license for the provision of ambulance service under Chapter 7.06 of the Lincoln Municipal Code, the proposed fee schedule for ambulance service provided by the city under Chapter 7.08 of the Lincoln Municipal Code, and proposed fee schedule for the provision of special event stand-by ambulance service under Chapter 7.10 of the Lincoln Municipal Code. Oversight Contractor shall provide written comments and recommendation as to each such fee schedule in a timely fashion and within the parameters in the Lincoln Municipal Code.

E. Ambulance Transportation Code; Enforcement. Oversight Contractor shall assist the City in enforcing the requirements of the Ambulance Transportation Code (Title 7 of the Lincoln Municipal Code as the same now exists or as may be amended from time to time). In that regard, Oversight Contractor shall monitor compliance by the holder of any Routine Ambulance Service license issued by the City with the provisions of the Ambulance Transportation Code and shall, propose such additional written regulations, in the form of protocols/medical treatment guidelines, as may be necessary or desirable to further enforcement of the Ambulance Transportation Code.

Oversight Contractor shall monitor the performance of emergency ambulance service by regularly reviewing such records as by ordinance shall be maintained by the City regarding ambulance service, including trip records and dispatch records, as may be necessary to determine whether the city is meeting its goal response time as set forth in section 7.08.050 of the Lincoln Municipal Code. Oversight Contractor shall have access to the files, records, dispatch records, patient care reports, EMS training reports, provider performance documents, response times of fire and ambulance personnel, and such records as by ordinance shall be maintained by the City regarding ambulance service as may be necessary to report the City's performance of such service. Oversight Contractor shall at least quarterly report in writing to the City Council (by filing with the City Clerk) regarding their findings as to the performance of the City's emergency ambulance service and regarding emergency ambulance service response times. Such written report shall not contain any identifying information with regard to individual patients or providers.

Oversight Contractor agrees that it will not delegate or assign any of its duties or obligations under this Contract or any portion thereof without the express prior written consent of the City.

Oversight Contractor shall perform such other and additional duties as may be delegated to it pursuant to any future revisions to the Ambulance Transportation Code with the approval of the Oversight Contractor and the Hospitals.

**Section 2.    Responsibilities of the Hospitals.**

A.       Saint Elizabeth and BryanLGH agree to make a good faith effort to follow the Medical Care Protocols/medical treatment guidelines promulgated by the Medical Director in the provision of out-of-hospital emergency medical care.

B.       Training. It is recognized by the parties that the utilization of out-of-hospital emergency medical technicians is essential to the provision of emergency medical care within the emergency medical care system. In order to provide training for emergency medical technicians up to and including paramedics, Saint Elizabeth and BryanLGH agree to jointly cooperate with

Oversight Contractor in the development of a program to provide clinical experiences providing advanced emergency care for trainees and for reissuance of the State Certificates to trainees and State Certificate Holders, provided, however, ultimate responsibility for all such programs shall rest with the Oversight Contractor. The program, as established, will make a good faith effort to provide access to all necessary specialty areas of the respective hospitals so as to provide appropriate clinical experiences for the trainees or current State Certificate holders, but any such access must be reasonable and under the supervision of appropriate hospital personnel, must take into consideration the needs of the participating hospitals and any existing limitations upon their capacity and patient needs. The scheduling of clinical experiences for trainees or current State Certificate holders will be determined by the hospitals. The parties agree that the training responsibilities described herein contemplates the existing number of trainees, and type of training experiences so as not to unduly burden the hospitals.

C. Disposal of Medical Waste. Saint Elizabeth and Bryan LGH agree to only accept from out-of-hospital emergency medical care providers contaminated medical waste generated by a patient delivered to a hospital in the form and manner as required by the hospital and OSHA guidelines.

D. Notwithstanding any other provision of this Agreement to the contrary, in no event shall any party be required to comply with any protocol or carry out any requirement of this Agreement which is contrary to any state or federal law, rule or regulation or any reasonable interpretation thereof.

**Section 3. Duties of the City.** The City agrees that the agencies under its jurisdiction and control, and its employees, in the provision of out-of-hospital emergency medical care on behalf of the City, shall be bound by and shall follow the Medical Care Protocols/Medical Treatment Guidelines as promulgated by the Medical Director. The City further agrees that it will continue to use the Oversight Contractor approved priority dispatch system in place at the time of execution



of this Agreement, for purposes of screening calls for ambulance service and dispatching out-of-hospital emergency medical care providers.

The City agrees that it will not enter into any collective bargaining agreement which alters, restricts, or impairs the authority of the Medical Director over out-of-hospital emergency medical care providers operating under the Medical Director's license as required by State law.

**Section 4. Budget of Oversight Contractor.** Oversight Contractor shall annually propose a budget which shall be submitted to the City no later than May 1st of each year during which this Agreement is in effect. Such budget shall set forth the past year's expenditures and the amounts proposed to be expended by Oversight Contractor in the upcoming fiscal year. Such budget must be considered by the City Council of the City. Once a budget is approved by the City Council, no money shall be expended by Oversight Contractor in the performance of this Agreement except in accordance with such approved budget; provided, however, the Mayor of the City may, in writing, authorize changes in the approved budget to the extent that the same do not represent an increase in the funds provided by the City or the Hospitals to Oversight Contractor under this Agreement.

**Section 5. Financial Contributions.** In consideration of the performance of its duties as provided in Section 1 of this Agreement, and in order to permit Oversight Contractor to fulfill its responsibilities, the parties agree that the following funding shall be provided to Oversight Contractor:

On September 1, 2005 and each September 1 thereafter during which this Agreement is in effect, Saint Elizabeth shall pay to the Oversight Contractor the sum of Fifty-two Thousand Four Hundred Dollars (\$52,400), Bryan LGH the sum of One Hundred Four Thousand Eight Hundred Dollars (\$104,800), and the City One Hundred Thousand Dollars (\$100,000). Such money shall be used by the Oversight Contractor only to fund the activities in the approved budget of the Oversight Contractor. In the event of any budget surplus on August 31 of any year during which this Agreement is in effect, Oversight Contractor shall return such surplus to the parties in proportion to each party's contribution for that year.

**Section 6. Purchases.** In the procurement of materials and services required by or to be used in the performance of the duties contemplated hereunder, Oversight Contractor shall conform to the applicable purchasing requirements as set forth in Article VII, Section 2 of the Charter of the City and may utilize the services of the City's Purchasing Agent.

**Section 7. Audit and Inspection.** At any time during normal business hours, and as often as the parties may deem necessary, Oversight Contractor shall make available to the City, or to the hospitals, for examination at reasonable locations, all of Oversight Contractor's books, records, and documents relating to matters covered by this Agreement, and Oversight Contractor shall permit the City to audit, examine, and make excerpts or transcripts of such books, records, and documents, and to audit all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Agreement. Oversight Contractor shall maintain such books, records, and documents in an accessible location and condition for a period of not less than seven (7) years unless the City agrees in writing to an earlier disposition.

**Section 8. Independent Contractor.** It is agreed that Oversight Contractor shall perform as an independent contractor with sole control of the manner, means, and methods of performing the services required under this Agreement. Oversight Contractor shall be considered, for all purposes arising out of this Agreement, an independent contractor, and none of its employees or agents shall be deemed employees of the City or the hospitals. To the extent that any wages paid pursuant to the provisions of this Agreement are subject to state or federal income taxation, or social security taxation, the same shall be the exclusive responsibility of Oversight Contractor as employer.

**Section 9. Equal Employment Opportunity.** In connection with the performance of work under this Agreement, Oversight Contractor agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, ancestry, age, or marital status. In the employment of persons, Oversight Contractor shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code and shall take

affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, national origin, ancestry, age, or marital status. Oversight Contractor shall submit an Affirmative Action Program Information Sheet to the City's Affirmative Action Officer upon a form prescribed by the City.

**Section 10. Comptroller.** The parties hereto jointly and severally agree that the Comptroller General of the United States, HHS, or their duly authorized representative (including Medicare Fiscal Intermediaries), shall receive at any time, including the seven years after the furnishing of the services under this Agreement upon request, the contracts, books, documents and records, including all writings, recordings, transcriptions and tapes of any description, necessary to verify the nature and extent of the costs of services provided by any party, any organization related to the party and any subcontractor carrying out the duties of a party through a subcontractor, with one of the parties having a value or cost of \$10,000 or more over a 12 month period, all as defined and in accordance with the laws, rules and regulations related to this matter. In all events, access shall be provided, notwithstanding anything herein to the contrary, in total compliance with Section 139x(v)(1)(I) of Title 42 of the United States Code as now existing and as hereafter amended.

**Section 11. Term and Termination.** The term of this Agreement shall commence on September 1, 2005, and end on August 31, 2009; provided, however, that any party may withdraw from this Agreement by giving the other parties a six-month notice in writing, on or before February 28<sup>th</sup> of the then current year, of intention to withdraw, with such withdrawal to be effective on August 31st of that year. In the event one of the parties withdraws, upon receiving notice of such withdrawal, all of the other parties have the additional right to withdraw within 30 days written notice. If this Agreement is superseded by a Charter Amendment creating an ambulance authority, this Agreement will continue until such authority can assume the duties of the oversight contractor.

**Section 12. Business Associate Language.**

**I. Definitions.** Terms used but not otherwise defined in this Section 12 shall have the meanings set forth in the HIPAA Privacy Rule:

- a. *Business Associate Functions* means functions performed by Business Associate on behalf of Covered Entity, pursuant to this Agreement, which involve the creation of, access to, use or disclosure of PHI by Business Associate, its agents or contractors.
- b. *Covered Entity* means that portion of the City of Lincoln designated a “covered health care component.” For purposes of this Section, the designated covered health care components of the City, subject to HIPAA compliance, are: the Lincoln Fire Department, to the extent such department acts in its role as an emergency medical service; the City Finance Department, including but not limited to the divisions City Clerk, Accounting, and Information Services, but not including the division Emergency Communications/911 Center, to the extent such department performs acts on behalf of that portion of the Lincoln Fire Department as is a covered component; and the City Law Department, to the extent such department performs acts on behalf of that portion of the Lincoln Fire Department as is a covered component. The City of Lincoln reserves the right to amend this list at anytime, and will forward a revised list to Business Associate as necessary.
- c. *Covered Entity’s Privacy Officer* means the person designated by the City to act as Privacy Officer for the Covered Entity. The City’s Privacy Officer is Kathy Cook. City reserves the right to change who its Privacy Officer is at any time, and will notify Business Associate if any such change is made.
- d. *HIPAA* means the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d to 1320d-7.

- e. *HIPAA Privacy Rule* means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R Part 160 and Part 164, Subparts A and E.
- f. *Individual* means the same as the term “individual” in 45 C.F.R. § 164.501 and shall include a person who qualifies as a personal representative in accordance with § 164.502(g).
- g. *Protected Health Information (PHI)* means protected health information, as defined in 45 C.F.R § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- h. *Regulations* means the final Regulations implementing the privacy provisions of HIPAA, as amended from time to time. The Regulations are presently codified at 45 C.F.R. Parts 160 and 164.
- i. *Required by Law* means the same as the term “required by law” in § 164.501.
- j. *Secretary* means the Secretary of the Department of Health and Human Services or his designee.
- k. “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system affecting ePHI.

**II. Purpose.** The City of Lincoln is a hybrid entity for HIPAA purposes, consisting of covered and non-covered health care components. The covered components are treated as a Covered Entity as defined by HIPAA, and thus, are subject to HIPAA, including its Privacy Rule. Business Associate performs functions for the City, by virtue of this Agreement, in the course of which Business Associate uses or has access to PHI. HIPAA requires Covered Entity to obtain satisfactory written contractual assurances from its business associates. The purpose of this Section is to obtain satisfactory written contractual assurances from Business Associate that Business Associate will appropriately safeguard such PHI in accordance with the HIPAA Privacy Rule.

**III. Permitted Uses and Disclosures by Business Associate.** Except as otherwise limited in this Section or in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, provided such use or disclosure would not violate the HIPAA Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

**IV. Obligations and Assurances of Business Associate.** As an express condition of performing Business Associate Functions, Business Associate agrees as follows:

- a. To not use or disclose PHI other than as permitted or required by this Section or as Required by Law.
- b. Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for in this Section.
- c. Report to Covered Entity, by contacting, in writing, Covered Entity's Privacy Officer, within ten days after discovery, any use or disclosure of PHI not provided for by this Section of which it becomes aware, together with any remedial or mitigating action taken or proposed to be taken with respect thereto. Business Associate shall cooperate with Covered Entity as requested by Covered Entity in mitigating any harmful effects of such unauthorized disclosure.
- d. Ensure that any agent, including a subcontractor, to whom Business Associate provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees, in writing, to the same restrictions and conditions that apply through this Section to Business Associate with respect to such information.
- e. Provide access by Covered Entity, at the request of Covered Entity, within a reasonable amount of time after request to PHI, or, as directed by Covered Entity, to an Individual in order to meet the requirements of § 164.524 of the Regulations.
- f. Notify Covered Entity, by contacting Covered Entity's Privacy Officer, in writing, within three business days of a request by an Individual to amend PHI maintained

by Business Associate, direct the requesting Individual to the Covered Entity for the handling of such request, and incorporate any amendment accepted by the Covered Entity in accordance with § 164.526 of the Regulations. Business Associate is not authorized to independently agree to an amendment of PHI.

- g. Document disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with § 164.528 of the Regulations.
- h. Provide to Covered Entity or an Individual, within thirty days, information collected in accordance with Section IV (g) of this Section, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- i. Notify Covered Entity by contacting Covered Entity's Privacy Officer, in writing, within three business days of any request by an Individual for an accounting of disclosures, direct the requesting Individual to the Covered Entity in the handling of such request, and provide Covered Entity within ten days thereafter with all information in its possession or in the possession of its agents, and contractors, which is needed to permit Covered Entity to respond to the request for accounting in accordance with § 164.528 of the Regulations. Business Associate agrees to retain necessary records from which to respond to the requests for an accounting.
- j. Make internal practices, books and records, including policies and procedures, and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary, within a reasonable time after request, or as designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Privacy Rule. Upon fulfilling such a request by the Secretary, Business Associate shall

notify, in writing, the City of such request and shall indicate to City what was provided the Secretary in response to such request.

**V. *Responsibilities of the Covered Entity.*** Covered Entity agrees to:

- a. Notify Business Associate of any limitation(s) in the Covered Entity's Notice of Privacy Practices in accordance with § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- b. Notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose such Individual's PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- c. Notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with t 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**VI. *Term and Termination.***

- a. Termination by Covered Entity. Upon Covered Entity's knowledge of a material breach of the terms of this Section by Business Associate, Covered Entity may immediately terminate the Agreement. Alternatively, Covered Entity may chose to provide Business Associate with written notice of the existence of an alleged material breach, and afford Business Associate an opportunity to cure the alleged material breach upon mutually agreeable terms. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- b. Effect of Termination.
  1. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, in accordance with Section III (b) of the Service Agreement. This provision shall apply to PHI that is in the possession of



subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

2. In the event that Business Associate determines that returning the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return infeasible. If the Covered Entity agrees it is not feasible to return the PHI, Covered Entity will instruct Business Associate to destroy the PHI. If the destruction of the PHI is not feasible, Business Associate shall provide to Covered Entity written notification of the conditions that make the destruction of PHI infeasible. Upon written notice to Covered Entity that return or destruction of PHI is not feasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

## **VII. Security**

- a. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of the City of Lincoln, as required by the Security Rule.
- b. Business Associate shall ensure that any agent, including a subcontractor, to whom Business Associate provides such information agrees to implement reasonable and appropriate safeguards to protect it.
- c. If Business Associate creates, receives, maintains or transmits ePHI on behalf of Covered Entity, it further agrees to:
  - i. Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of ePHI.

- ii. Ensure that any agent, including any subcontractor, to whom it provides ePHI, or with whom it contracts to create, receive, maintain or transmit ePHI, agrees to implement reasonable and appropriate safeguards to protect such ePHI.
- iii. Report to Covered Entity any security incident of which Business Associate becomes aware as follows: (i) provide prompt written notice to Covered Entity of any successful security incident; and (ii) make available to Covered Entity upon request a written summary or log of any unsuccessful security incident.

**VIII. *Miscellaneous.***

- a. Amendment. The parties agree to take such action as is necessary to amend this Section from time to time as necessary for Covered Entity to comply with the requirements of the HIPAA Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- b. Survival. The respective rights and obligations of Business Associate under Section VI(c) of this Section shall survive the termination of this Agreement.
- c. Interpretation. Any ambiguity in this Section shall be resolved to permit Covered Entity to comply with the HIPAA Regulations.
- d. A reference in this Section to a section in the Privacy Rule or Regulation means the section as in effect or as amended. A reference in the Section to a section in the Security Rule means the section as in effect or as amended.

**Section 13. Notice.** Any notice required to be sent pursuant to this Agreement shall be sent to:

CEO  
BryanLGH  
1600 S. 48th Street  
Lincoln, NE 68506

CEO  
Saint Elizabeth Regional Medical Center  
555 South 70th Street  
Lincoln, NE 68510

City Clerk  
City of Lincoln  
555 South 10th Street  
Lincoln, NE 68508

Executive Director  
EMS, Inc.  
4600 Valley Road, Suite 321  
Lincoln, NE 68510

President  
Lancaster County Medical Society  
2966 "O" Street  
Lincoln, NE 68510

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day  
and year first written above.

**EMERGENCY MEDICAL SERVICES, INC.,  
A Nonprofit Corporation**

By: \_\_\_\_\_  
President

**THE CITY OF LINCOLN, NEBRASKA,  
A Municipal Corporation**

By: \_\_\_\_\_  
Coleen Seng, Mayor

**SAINT ELIZABETH COMMUNITY HEALTH  
CENTER, A Non-profit Corporation**

By: \_\_\_\_\_  
President

**BRYAN/LGH MEDICAL CENTER,  
A Non-Profit Corporation**

By: \_\_\_\_\_  
President

**LANCASTER COUNTY MEDICAL SOCIETY,  
A Non-Profit Corporation**

By: \_\_\_\_\_  
President